

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Andres LANDA-Garcia

AKA: Andres GARCIA-Landa

Defendant.

07 OCT 12 AM 11:44
Magistrate Case No. 07 MJ 2443
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326;
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

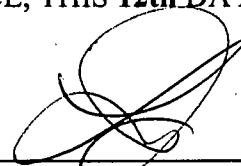
On or about, **October 3, 2007**, within the Southern District of California, defendant, **Andres LANDA-Garcia** (AKA: Andres GARCIA-Landa) an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
Gladys M. Martinez, Deportation Officer
U.S. Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **12th** DAY OF **October 2007**.



UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

As part of assigned duties of the Detention and Removal Office, Deportation Officers review various sources in order to check on aliens that have been previously removed from the United States. This is done in order to determine if subjects have returned to the United States, in violation of Title 8, United States Code, Section 1326.

On October 3, 2007, the defendant Andres LANDA-Garcia, (AKA: GARCIA-Landa, Andres) was arrested by Customs and Border Protection, determined to be a citizen of Mexico and transported to the Imperial Beach Border Patrol Station for processing. While conducting Law Enforcement Inquiries the Agents found that the defendant was on parole and October 6, 2007, the defendant was booked into San Diego Central Jail for violation of Penal Code 3056 Violation of Parole. While in custody in County jail the defendant was encountered by an Immigration and Customs Enforcement Agent who conducted a field interview, determined him to be a citizen of Mexico and placed an Immigration Hold (I-247) pending his release.

On October 11, 2007, at approximately 0345 hours, the defendant was referred to United States Immigration and Customs Enforcement custody. An Immigration and Customs Enforcement Officer reviewed various sources of information and conducted official record checks on the defendant. A thorough review of the defendant's official immigration record revealed that he is a citizen and national of Mexico having been previously removed from the United States. At approximately 0815 hours the defendant was referred to the Prosecution Unit for possible violation of Title 8, United States Code, Section 1326 Deported Alien Found in United States.

The Automated Biometric Fingerprint Identification System (IDENT) and Automated Fingerprint Identification System (IAFIS) were utilized and compared the defendant's fingerprints to those contained in these databases. The results confirmed the defendant's identity as Andres LANDA-Garcia, (AKA: GARCIA-Landa, Andres) a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were obtained and also compared to the defendant, further confirming his identity.

A thorough review of official immigration computer database record checks revealed that the defendant was ordered removed by an Immigration Judge on or about December 14, 2005. Record checks further indicate that the defendant has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

The defendant was advised of his MIRANDA rights at approximately 11:38 a.m. in the Spanish language by an ICE Officer. The defendant acknowledged his rights per MIRANDA and elected to answer questions without counsel present.

The defendant stated that his true name is Andres LANDA-Garcia and a citizen of Mexico by birth in Mexico. The defendant acknowledged that he had been deported or removed from the United States on at least one occasion on or about October 2, 2007. The defendant stated he has not obtained a waiver to re-enter the United States. The defendant admitted that he has no documents to enter or reside in the United States and knew it was against the law to enter illegally after having been deported.

Based upon the foregoing information, there is probable cause to believe that Andres LANDA-Garcia has illegally re-entered the United States after Deportation, in violation of Title 8 of the United States Code 1326, Deported Alien Found in the United States.